

FIRST REGULAR SESSION

SENATE BILL NO. 393

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATORS GREEN AND BARTLE.

Read 1st time February 18, 2009, and ordered printed.

TERRY L. SPIELER, Secretary.

1335S.011

AN ACT

To repeal sections 100.250, 100.255, 100.260, 100.263, 100.265, 100.270, 100.275, 100.277, 100.281, 100.282, 100.286, 100.287, 100.291, 100.292, 100.293, 100.296, and 100.297, RSMo, relating to the repeal of the Missouri development finance board act.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 100.250, 100.255, 100.260, 100.263, 100.265, 100.270, 100.275, 100.277, 100.281, 100.282, 100.286, 100.287, 100.291, 100.292, 100.293, 100.296, and 100.297, RSMo, are repealed, to read as follows:

[100.250. Sections 100.250 to 100.297 shall be known and may be cited as the "Missouri Development Finance Board Act".]

[100.255. As used in sections 100.250 to 100.297, the following terms mean:

(1) "Board", the Missouri development finance board created by section 100.265;

(2) "Borrower", any person, partnership, public or private corporation, association, development agency or any other entity eligible for funding under sections 100.250 to 100.297;

(3) "Development agency", any of the following:

(a) A port authority established pursuant to chapter 68, RSMo;

(b) The bi-state development agencies established pursuant to sections 70.370 to 70.440, RSMo, and sections 238.010 to 238.100, RSMo;

(c) A land clearance for redevelopment authority

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

15 established pursuant to sections 99.300 to 99.660, RSMo;

16 (d) A county, city, incorporated town or village or other
17 political subdivision or public body of this state;

18 (e) A planned industrial expansion authority established
19 pursuant to sections 100.300 to 100.620;

20 (f) An industrial development corporation established
21 pursuant to sections 349.010 to 349.105, RSMo;

22 (g) A real property tax increment financing commission
23 established pursuant to sections 99.800 to 99.865, RSMo;

24 (h) Any other governmental, quasi-governmental or
25 quasi-public corporation or entity created by state law or by
26 resolution adopted by the governing body of a development agency
27 otherwise described in paragraphs (a) through (g) of this
28 subdivision;

29 (4) "Development and reserve fund", the industrial
30 development and reserve fund established pursuant to section
31 100.260;

32 (5) "Export finance fund", the Missouri export finance fund
33 established pursuant to section 100.260;

34 (6) "Export trade activities" includes, but is not limited to,
35 consulting, international market research, advertising, marketing,
36 insurance, product research and design, legal assistance,
37 transportation, including trade documentation and freight
38 forwarding, communication, and processing of foreign orders to and
39 for exporters and foreign purchases and warehousing, when
40 undertaken to export or facilitate the export of goods or services
41 produced or assembled in this state;

42 (7) "Guarantee fund", the industrial development guarantee
43 fund established by section 100.260;

44 (8) "Infrastructure development fund", the infrastructure
45 development fund established under section 100.263;

46 (9) "Infrastructure facilities", the highways, streets, bridges,
47 water supply and distribution systems, mass transportation
48 facilities and equipment, telecommunication facilities, jails and
49 prisons, sewers and sewage treatment facilities, wastewater
50 treatment facilities, airports, railroads, reservoirs, dams and

51 waterways in this state, acquisition of blighted real estate and the
52 improvements thereon, demolition of existing structures and
53 preparation of sites in anticipation of development, public facilities,
54 and any other improvements provided by any form of government
55 or development agency;

56 (10) "Jobs now fund", the jobs now fund established under
57 section 100.260;

58 (11) "Jobs now projects", the purchase, construction,
59 extension, and improvement of real estate, plants, buildings,
60 structures, or facilities, whether or not now in existence, used or to
61 be used primarily as infrastructure facilities or public
62 facilities. When any entity provides a certified design or operation
63 plan which is demonstrably less than the usual and customary
64 average industry determination of cost for installation,
65 construction, purchasing, extension, and improvement of real
66 estate, manufacturing facilities, buildings, structures or facilities,
67 including public facilities, then the entity or company providing
68 such service may receive payment in an amount equal to the usual
69 and customary fee for such project plus additional compensation
70 equal to two times the percentage by which the cost of such
71 aforementioned criteria of such facility is less than the usual and
72 customary average industrial determination of cost for installation,
73 construction, materials, extension and improvement of real estate,
74 manufacturing facilities, buildings, structures, or facilities,
75 including public facilities. Such entity shall also pay to such
76 company providing such aforementioned service compensation
77 equal to twenty-five percent of the amount of any annual
78 operational costs which are lower than the customary average
79 industry determination of cost for operation for such facility,
80 procedure, or service for a period of time equal to one-fourth the
81 design lifetime of such entity or five years whichever is less;

82 (12) "Participating lender", a lender authorized by the
83 board to participate with the board in the making of a loan or to
84 make loans the repayment of which is secured by the development
85 and reserve fund;

86 (13) "Project", the purchase, construction, extension, and

87 improvement of real estate, plants, buildings, structures or
88 facilities, whether or not now in existence, used or to be used
89 primarily as a factory, assembly plant, manufacturing plant,
90 fabricating plant, distribution center, warehouse building, office
91 building, port terminal or facility, transportation and transfer
92 facility, industrial plant, processing plant, commercial or
93 agricultural facility, nursing or retirement facility or combination
94 thereof, recreational facility, cultural facility, public facilities, job
95 training or other vocational training facility, infrastructure facility,
96 video-audio telecommunication conferencing facility, office building,
97 facility for the prevention, reduction, disposal or control of
98 pollution, sewage or solid waste, facility for conducting export trade
99 activities, or research and development building in connection with
100 any of the facilities defined as a project in this subdivision. The
101 term "project" shall also include any improvements, including, but
102 not limited to, road or rail construction, alteration or relocation,
103 and construction of facilities to provide utility service for any of the
104 facilities defined as a project under this subdivision, along with any
105 fixtures, equipment, and machinery, and any demolition and
106 relocation expenses used in connection with any such projects and
107 any capital used to promote and facilitate such facilities and notes
108 payable from anticipated revenue issued by any development
109 agency;

110 (14) "Public facility", any facility or improvements available
111 for use by the general public including facilities for which user or
112 other fees are charged on a nondiscriminatory basis.]

[100.260. 1. There are hereby created four special funds,
2 to be known as the "Industrial Development and Reserve Fund",
3 the "Industrial Development Guarantee Fund", the "Export Finance
4 Fund", and the "Jobs Now Fund", into which the following may be
5 deposited as and when received and designated for deposit in one
6 of such funds:

7 (1) Any moneys appropriated by the general assembly for
8 use by the board in carrying out the powers set forth in sections
9 100.250 to 100.297;

10 (2) Any moneys made available through the issuance of

11 revenue bonds under the provisions of sections 100.250 to 100.295;

12 (3) Any moneys received from grants or which are given,
13 donated, or contributed to the fund from any source;

14 (4) Any moneys received in repayment of loans or from
15 application fees, reserve participation fees, guarantee fees and
16 premium payments as provided for under sections 100.250 to
17 100.297;

18 (5) Any moneys received as interest on deposits or as
19 income on approved investments of the fund;

20 (6) Any moneys obtained from the issuance of revenue
21 bonds or notes by the board;

22 (7) Any moneys that were in the industrial development
23 fund authorized by this section, the economic development reserve
24 authorized by section 620.215, RSMo, or the industrial revenue
25 bond guarantee fund authorized by section 620.240, RSMo,
26 respectively, as of September 28, 1985; and

27 (8) Any moneys obtained from any other available source.

28 2. The development and reserve fund, the guarantee fund,
29 the jobs now fund, and the export finance fund shall be
30 administered by the board as provided in sections 100.250 to
31 100.297. Separate accounts may be created within the development
32 and reserve fund and the guarantee fund for moneys specifically
33 appropriated, donated or otherwise received for industrial
34 development purposes. The board may also create such other
35 separate accounts within any of such funds as deemed necessary or
36 appropriate by the board to carry out the duties and purposes of
37 sections 100.250 to 100.297. All such separate accounts may be
38 administered by a corporate trustee on behalf of the board upon the
39 terms and conditions established by the board.

40 3. Moneys in the jobs now fund, the development and
41 reserve fund, the guarantee fund, and the export finance fund shall
42 be invested by the board in the manner prescribed by the board
43 and any interest earned on invested moneys shall accrue to the
44 benefit of the respective fund.

45 4. None of the funds and accounts of the board shall be
46 considered a state fund, and money deposited therein may not be

47 appropriated therefrom, nor shall any money deposited therein be
48 subject to the provisions of section 33.080, RSMo.

49 5. The commissioner of administration shall annually
50 calculate the increased amount of revenue to the state treasury due
51 to the provisions of sections 135.155, 135.286, 135.546, and
52 subsection 7 of section 620.1039, RSMo, as enacted or modified by
53 this act and shall allocate up to twelve million dollars of such
54 revenue to the jobs now fund.]

[100.263. An "Infrastructure Development Fund" shall be
2 established from which moneys shall be used to make low-interest
3 or interest-free loans, loan guarantees, or grants to local political
4 subdivisions and to state agencies. The fund may receive funds
5 from the federal government for infrastructure development
6 purposes, but other public or private funds may be received by the
7 board for deposit in the fund. The general assembly may
8 appropriate state moneys to the fund. The infrastructure
9 development fund shall be administered by the board under the
10 provisions of sections 100.250 to 100.297. Any moneys remaining
11 in the fund at the end of any fiscal year shall not revert to the
12 general revenue fund.]

[100.265. 1. There is hereby created within the department
2 of economic development the "Missouri Development Finance
3 Board", which shall constitute a body corporate and politic and
4 shall consist of twelve members, including the lieutenant governor,
5 the director of the department of economic development, the
6 director of the department of natural resources, and the director of
7 the department of agriculture. No more than five members
8 appointed by the governor to the board shall be of the same
9 political party. Except for the lieutenant governor, the director of
10 the department of economic development, the director of the
11 department of natural resources, and the director of the
12 department of agriculture, all members shall be appointed by the
13 governor by and with the advice and consent of the senate, and
14 shall serve for terms of four years. The persons serving as
15 members of the Missouri economic development, export and
16 infrastructure board on August 28, 1994, shall become members of

17 the Missouri development finance board for terms to expire at the
18 same time their terms would have expired if they had remained
19 members of the Missouri economic development, export and
20 infrastructure board. The Missouri development finance board
21 shall replace the Missouri economic development, export and
22 infrastructure board. All moneys, property, any other assets or
23 liabilities of the Missouri economic development, export and
24 infrastructure board on August 28, 1994, shall be transferred to the
25 Missouri development finance board. All powers, duties and
26 functions performed by the Missouri economic development, export
27 and infrastructure board pursuant to sections 100.250 to 100.297
28 shall be transferred to the Missouri development finance board.

29 2. Each member of the board appointed by the governor
30 shall have resided in this state for at least five years prior to
31 appointment. Except for the lieutenant governor, director of the
32 department of economic development, the director of the
33 department of natural resources, and the director of the
34 department of agriculture, no person may be appointed to the board
35 who is an elected officer or employee of the state, or any agency,
36 board, commission, or authority established by the state.

37 3. The governor shall designate one of the members of the
38 board to serve as chairman. The board shall meet at such times
39 and places it shall designate. Seven members shall constitute a
40 quorum. No vacancy in the membership shall impair the right of
41 a quorum of the members to exercise all of the rights and powers
42 and to perform all of the duties of the board.

43 4. Members of the board shall serve without compensation
44 but shall be reimbursed for their reasonable and necessary
45 expenses incurred in the performance of their duties.]

[100.270. The board shall have the power to:

- 2 (1) Sue and be sued in its official name;
- 3 (2) Adopt and use an official seal;
- 4 (3) Confer with agencies of the state and development
5 agencies, and with representatives of business, industry, and labor
6 for the purpose of promoting the economic development of this
7 state;

8 (4) Consider and review applications for loans to be made
9 from the development and reserve fund or for loans, bonds or notes
10 to be made by or secured by the development and reserve fund, the
11 guarantee fund, the export finance fund or the infrastructure
12 development fund or any other available money, under sections
13 100.250 to 100.297, and for grants or loans to be made by or
14 secured by the jobs now fund;

15 (5) Enter into agreements with development agencies,
16 borrowers, participating lenders and others to implement any of
17 the provisions of sections 100.250 to 100.297;

18 (6) Direct disbursements from the development and reserve
19 fund, the guarantee fund, the export finance fund, the
20 infrastructure development fund, and the jobs now fund as
21 provided in sections 100.250 to 100.297;

22 (7) Administer the development and reserve fund, the
23 guarantee fund, the export finance fund, the infrastructure
24 development fund, and the jobs now fund and invest any portion of
25 such funds not required for immediate disbursement in obligations
26 of the United States, or any agency or instrumentality of the
27 United States, in obligations of the state of Missouri and its
28 political subdivisions, in certificates of deposit and time deposits or
29 other obligations of banks and savings and loan associations or in
30 such other obligations as may be prescribed by the board;

31 (8) Apply for and accept gifts, grants, appropriations, loans
32 or contributions to the development and reserve fund, the
33 guarantee fund, the export finance fund, the infrastructure
34 development fund, and the jobs now fund from any source, public
35 or private, and enter into contracts or other transactions with any
36 federal or state agency, any development agency, private
37 organization, or any other source in furtherance of the purposes of
38 sections 100.250 to 100.297, and do any and all things necessary in
39 order to avail itself of such aid and cooperation;

40 (9) Issue, from time to time, its negotiable revenue bonds
41 or notes in such principal amounts as, in its opinion, shall be
42 necessary to provide sufficient funds for achieving its purposes;

43 (10) Establish reserves to secure bonds, notes and loans

44 issued or made by the board, development agencies or participating
45 lenders;

46 (11) Make, purchase, or participate in the making or
47 purchase, of loans, bonds, or notes to finance the costs of projects;

48 (12) Procure insurance, letters of credit, or other form of
49 credit enhancement, to secure the payment of principal and
50 interest on any loans, bonds or notes or other obligations of the
51 board;

52 (13) Purchase, receive, take by grant, gift, devise, bequest
53 or otherwise, lease, or otherwise acquire, own, hold, improve,
54 employ, use and otherwise deal in and with, real or personal
55 property, or any interest therein, wherever situated;

56 (14) Sell, convey, lease, exchange, transfer or otherwise
57 dispose of, all or any of its property, or any interest therein,
58 wherever situated;

59 (15) Conduct hearings and other methods of examination,
60 and authorize any of its members to do so, on any matter material
61 for its information and necessary to the exercise of the duties of the
62 board;

63 (16) Employ and fix the compensation of an executive
64 director and such other agents or employees as it considers
65 necessary;

66 (17) Adopt, alter, or repeal its own bylaws, rules, and
67 regulations governing the manner in which its business may be
68 transacted;

69 (18) Assess or charge a fee for each application it receives
70 for funding for a project or a jobs now project and assess or charge
71 other fees as the board determines to be reasonable to carry out its
72 purposes, including, but not limited to, fees or premiums for loans
73 made from the development and reserve fund and the export
74 finance fund and for loans, bonds or notes secured by the
75 development and reserve fund, the guarantee fund, the export
76 finance fund or the infrastructure development fund or the jobs
77 now fund;

78 (19) Make all expenditures which are incident and
79 necessary to carry out its purposes and powers;

80 (20) Take such action, enter into such agreements and
81 exercise all other powers and functions necessary or appropriate to
82 carry out the duties and purposes set forth in sections 100.250 to
83 100.297;

84 (21) Insure, coinsure, guarantee loans and make loans
85 relating to qualified export transactions and adopt criteria, by
86 means of rules and regulations, establishing which exporters shall
87 be eligible for the insurance, coinsurance, loan guarantees and
88 loans which may be extended by the board;

89 (22) Do all things necessary to ensure full participation by
90 the state of Missouri in any federal program which may relate to
91 the construction, repair, replacement or further development of the
92 infrastructure of the state and its political subdivisions;

93 (23) Receive funds from the federal government for deposit
94 into the infrastructure development fund or the jobs now fund and
95 authorize disbursements therefrom. The board may enter into
96 agreements with agencies of the federal government and may, on
97 behalf of the state of Missouri, do all things necessary to ensure
98 full participation by the state of Missouri in any federal program
99 which may relate to the repair, replacement or further development
100 of the infrastructure of the state and its political subdivisions;

101 (24) Set guidelines and priorities for loans, loan guarantees
102 or grants from the infrastructure development fund. The board is
103 the sole state agency authorized to set such guidelines and
104 priorities with respect to the infrastructure development fund on
105 behalf of the state or any of its political subdivisions, and loans,
106 loan guarantees, or grants shall only be made upon approval of the
107 board;

108 (25) Make equity investments in or otherwise acquire
109 ownership interests in: for-profit and not-for-profit federal- or
110 state-authorized community development corporations; small
111 business investment companies, including minority or specialized
112 small business investment companies; and microloan corporations
113 and similar lending institutions, when such investments are
114 deemed to enhance the benefit of the public;

115 (26) Make investments in Missouri certified capital

116 companies, as defined by subdivision (5) of subsection 2 of section
117 135.500, RSMo, or other investment companies for investment in
118 qualified Missouri businesses, as defined by subdivision (14) of
119 subsection 2 of section 135.500, RSMo. All investments made by
120 the board for the eventual investment in qualified Missouri
121 businesses shall be matched by an equivalent investment made by
122 the certified capital company or other investment firm for
123 investment into qualified Missouri businesses. All investments
124 made into Missouri qualified businesses under the provisions of
125 this subdivision shall be in the form of equity or unsecured debt
126 financing. No investment shall be made by the board under the
127 provisions of this subdivision without the approval of the director
128 of the department of economic development; and

129 (27) Make loans and grants from the jobs now fund in
130 accordance with the provisions of section 100.293.]

[100.275. 1. The board may at any time issue revenue
2 bonds for the purpose of paying any part of the cost of any project
3 or projects, or part thereof, and for the purpose of refunding any of
4 its bonds or the bonds of any development agency. Every issue of
5 its bonds shall be payable out of the revenues of the board which
6 may be pledged for such payment, without preference or priority of
7 the first bonds issued, subject to any agreement with the holders
8 of any other bonds or pledging any specified revenues. The bonds
9 shall be authorized by resolution of the board, shall bear such date
10 or dates, and shall mature at such time or times, but not in excess
11 of thirty years, as the resolution of the board shall specify. The
12 bonds shall be in such denominations, bear interest at such rates,
13 be in such form, either coupon or registered, be issued in such
14 manner, be payable in such place or places and be subject to
15 redemption as such resolution may provide. The bonds of the board
16 may be sold at public or private sale, as the board may specify, at
17 such price or prices as the board shall determine, but at not less
18 than ninety-five percent of the principal amount thereof, and at
19 such interest rate as the board shall determine, notwithstanding
20 the provisions of section 108.170, RSMo.

21 2. The board may issue notes payable from the proceeds of

22 bonds to be issued in the future or from such other sources as the
23 board may specify as in the case of bonds. Such notes shall mature
24 in not more than five years and shall be sold at public or private
25 sale, as the board may specify, at not less than ninety-five percent
26 of the principal amount thereof and at such interest rate as the
27 board shall determine, notwithstanding the provisions of section
28 108.170, RSMo. The other details with respect to such notes shall
29 be determined by the board as in the case of bonds.

30 3. The state shall not be liable on any notes or bonds of the
31 board. Such notes or bonds shall not be a debt of the state and
32 shall contain on the faces thereof a statement to such effect.

33 4. No member of the board nor any person authorized to
34 execute notes or bonds of the board shall be liable personally on
35 such notes or bonds or shall be subject to any personal liability or
36 accountability by reason of the issuance thereof.

37 5. The notes and bonds of the board are securities in which
38 all public bodies and political subdivisions of this state; all
39 insurance companies and associations and all other persons
40 carrying on an insurance business; all banks, trust companies,
41 saving associations, savings and loan associations, credit unions,
42 and investment companies; all administrators, guardians,
43 executors, trustees, and other fiduciaries; and all other persons
44 who now or may hereafter be authorized to invest in notes and
45 bonds or other obligations of this state may properly and legally
46 invest funds, including capital, in their control or belonging to
47 them.

48 6. The board shall not be required to pay any taxes or any
49 assessments whatsoever to this state, any political subdivision of
50 this state, or any other governmental agency of this state. The
51 notes and bonds of the board, and the income therefrom, shall, at
52 all times, be exempt from any taxes and any assessments, except
53 for estate taxes, gift taxes, and taxes on transfers.

54 7. Nothing contained in sections 100.250 to 100.297 shall
55 be deemed to constitute a use of state funds or credit in violation
56 of the provisions of article III, sections 37, 38(a) and 39, of the
57 Missouri Constitution.

58 8. The board shall have the power to contract with any
59 development agency to perform any governmental service, activity
60 or undertaking which the contracting development agency is
61 authorized by law to perform or to issue any bonds or notes which
62 the contracting development agency is authorized by law to
63 issue. Any such contract shall be authorized by the governing body
64 of the development agency and by the board and shall state the
65 purpose of the contract and the powers and duties of the parties
66 thereunder. Any bonds or notes issued by the board on behalf of
67 a development agency shall be entitled to the same security as if
68 such bonds or notes were issued directly by the development
69 agency. In addition to any other security for such bonds or notes,
70 the board may secure such bonds, notes or other indebtedness in
71 the manner described in section 100.297.]

 [100.277. Funds expended for projects authorized in
2 sections 100.255 to 100.293 shall provide appropriate employment
3 and business opportunities for participation by minority, women,
4 and disadvantaged business enterprises in compliance with all
5 state laws, rules, and regulations.]

 [100.281. 1. A request for a loan from the development and
2 reserve fund, the infrastructure development fund, the export
3 finance fund, or the jobs now fund to fund export trade activities
4 or to carry out a project shall be in the form of an application for
5 the project to the board, which application shall be in such form as
6 the board may specify. After reviewing the application and such
7 other information as the board may require, the board may grant
8 all or a part of the loan request, provided the board determines
9 that:

10 (1) The project will be a benefit to the economy or
11 infrastructure of the state;

12 (2) The project will generate sufficient revenues or the
13 borrower will otherwise have sufficient revenues available to
14 enable the borrower to repay the loan to the development and
15 reserve fund, the infrastructure development fund, the export
16 finance fund, or the jobs now fund, along with any interest to be
17 charged; and

18 (3) In the case of an infrastructure facility project, the loan
19 will not exceed ten million dollars.

20 2. Notwithstanding any other provision of law to the
21 contrary, all development agencies, as defined in section 100.255,
22 shall have the power to borrow funds from the board for any
23 project, to contract with the board, and to furnish a security
24 interest in any of their revenues or properties to the board to
25 secure a loan from the board and to issue notes in evidence thereof
26 upon such terms as such development agencies shall determine.

27 3. When the board issues bonds to provide loans for more
28 than one infrastructure project, the board shall make a reasonable
29 effort to sell the bonds to a purchaser that represents a group
30 consisting of more than one underwriter.]

[100.282. The Missouri development finance board, the
2 Missouri health and educational facilities authority, the Missouri
3 higher education loan authority, the Missouri housing development
4 commission, and the environmental improvement and energy
5 resources authority shall only approve loan requests from the state,
6 any agency or department of the state, or any state educational
7 institution if the borrower's means of repayment is readily
8 ascertainable and reliable. With the exception of annual
9 appropriation debt for state-owned property, the entities listed in
10 this section shall not approve such requests if the means of
11 repayment is contingent upon state funding that has not been
12 granted, unless the project has been approved by concurrent
13 resolution of the general assembly, or similar legislative directive
14 or approval.]

[100.286. 1. Within the discretion of the board, the
2 development and reserve fund, the infrastructure development fund
3 or the export finance fund may be pledged to secure the payment
4 of any bonds or notes issued by the board, or to secure the payment
5 of any loan made by the board or a participating lender which loan:

6 (1) Is requested to finance any project or export trade
7 activity;

8 (2) Is requested by a borrower who is demonstrated to be
9 financially responsible;

10 (3) Can reasonably be expected to provide a benefit to the
11 economy of this state;

12 (4) Is otherwise secured by a mortgage or deed of trust on
13 real or personal property or other security satisfactory to the board;
14 provided that loans to finance export trade activities may be
15 secured by export accounts receivable or inventories of exportable
16 goods satisfactory to the board;

17 (5) Does not exceed five million dollars;

18 (6) Does not have a term longer than five years if such loan
19 is made to finance export trade activities; and

20 (7) Is, when used to finance export trade activities, made to
21 small or medium size businesses or agricultural businesses, as may
22 be defined by the board.

23 2. The board shall prescribe standards for the evaluation of
24 the financial condition, business history, and qualifications of each
25 borrower and the terms and conditions of loans which may be
26 secured, and may require each application to include a financial
27 report and evaluation by an independent certified public accounting
28 firm, in addition to such examination and evaluation as may be
29 conducted by any participating lender.

30 3. Each application for a loan secured by the development
31 and reserve fund, the infrastructure development fund or the
32 export finance fund shall be reviewed in the first instance by any
33 participating lender to whom the application was submitted. If
34 satisfied that the standards prescribed by the board are met and
35 that the loan is otherwise eligible to be secured by the development
36 and reserve fund, the infrastructure development fund or the
37 export finance fund, the participating lender shall certify the same
38 and forward the application for final approval to the board.

39 4. The securing of any loans by the development and
40 reserve fund, the infrastructure development fund or the export
41 finance fund shall be conditioned upon approval of the application
42 by the board, and receipt of an annual reserve participation fee, as
43 prescribed by the board, submitted by or on behalf of the borrower.

44 5. The securing of any loan by the export finance fund for
45 export trade activities shall be conditioned upon the board's

46 compliance with any applicable treaties and international
47 agreements, such as the general agreement on tariffs and trade and
48 the subsidies code, to which the United States is then a party.

49 6. Any taxpayer, including any charitable organization that
50 is exempt from federal income tax and whose Missouri unrelated
51 business taxable income, if any, would be subject to the state
52 income tax imposed under chapter 143, RSMo, shall be entitled to
53 a tax credit against any tax otherwise due under the provisions of
54 chapter 143, RSMo, excluding withholding tax imposed by sections
55 143.191 to 143.261, RSMo, chapter 147, RSMo, or chapter 148,
56 RSMo, in the amount of fifty percent of any amount contributed in
57 money or property by the taxpayer to the development and reserve
58 fund, the infrastructure development fund or the export finance
59 fund during the taxpayer's tax year, provided, however, the total
60 tax credits awarded in any calendar year beginning after January
61 1, 1994, shall not be the greater of ten million dollars or five
62 percent of the average growth in general revenue receipts in the
63 preceding three fiscal years. This limit may be exceeded only upon
64 joint agreement by the commissioner of administration, the director
65 of the department of economic development, and the director of the
66 department of revenue that such action is essential to ensure
67 retention or attraction of investment in Missouri. If the board
68 receives, as a contribution, real property, the contributor at such
69 contributor's own expense shall have two independent appraisals
70 conducted by appraisers certified by the Master Appraisal
71 Institute. Both appraisals shall be submitted to the board, and the
72 tax credit certified by the board to the contributor shall be based
73 upon the value of the lower of the two appraisals. The board shall
74 not certify the tax credit until the property is deeded to the
75 board. Such credit shall not apply to reserve participation fees
76 paid by borrowers under sections 100.250 to 100.297. The portion
77 of earned tax credits which exceeds the taxpayer's tax liability may
78 be carried forward for up to five years.

79 7. Notwithstanding any provision of law to the contrary,
80 any taxpayer may sell, assign, exchange, convey or otherwise
81 transfer tax credits allowed in subsection 6 of this section under

82 the terms and conditions prescribed in subdivisions (1) and (2) of
83 this subsection. Such taxpayer, hereinafter the assignor for the
84 purpose of this subsection, may sell, assign, exchange or otherwise
85 transfer earned tax credits:

86 (1) For no less than seventy-five percent of the par value of
87 such credits; and

88 (2) In an amount not to exceed one hundred percent of
89 annual earned credits.

90 The taxpayer acquiring earned credits, hereinafter the assignee for
91 the purpose of this subsection, may use the acquired credits to
92 offset up to one hundred percent of the tax liabilities otherwise
93 imposed by chapter 143, RSMo, excluding withholding tax imposed
94 by sections 143.191 to 143.261, RSMo, chapter 147, RSMo, or
95 chapter 148, RSMo. Unused credits in the hands of the assignee
96 may be carried forward for up to five years, provided all such
97 credits shall be claimed within ten years following the tax years in
98 which the contribution was made. The assignor shall enter into a
99 written agreement with the assignee establishing the terms and
100 conditions of the agreement and shall perfect such transfer by
101 notifying the board in writing within thirty calendar days following
102 the effective day of the transfer and shall provide any information
103 as may be required by the board to administer and carry out the
104 provisions of this section. Notwithstanding any other provision of
105 law to the contrary, the amount received by the assignor of such
106 tax credit shall be taxable as income of the assignor, and the excess
107 of the par value of such credit over the amount paid by the
108 assignee for such credit shall be taxable as income of the assignee.]

2 [100.287. 1. The development and reserve fund shall be
3 used to prevent a default in payment of principal or interest or to
4 defray losses which may be incurred in connection with bonds,
5 notes or loans secured by the development and reserve fund in
6 accordance with the terms and provisions of the resolution or trust
7 indenture of the board authorizing such bonds, notes or loans.

8 2. Upon certification by a participating lender that a loan
9 secured by the development and reserve fund is in default and
noncollectible, and that the property which secured the loan has

10 been liquidated and applied against the debt, and after a review by
11 the board and its determination of the same, the board shall
12 distribute, from funds available in the development and reserve
13 fund, an amount not to exceed ninety percent of the balance
14 remaining to be paid by the borrower to the participating
15 lender. Upon payment to a participating lender to repay any loan,
16 the board shall become subrogated to the extent of such payment
17 to all rights which the participating lender had against the
18 borrower.

19 3. A loan or issue of bonds or notes secured by the
20 development and reserve fund shall in no case constitute or be
21 construed as an obligation or an indebtedness of this state or of the
22 board, and neither the state nor the board shall be liable to repay
23 any such loan, bonds or notes upon any condition.]

[100.291. 1. The board may issue guarantees using moneys
2 in the guarantee fund for bonds or notes issued by the board or by
3 development agencies when the board makes the following findings:

4 (1) That the owners and lessees, if any, of the projects to be
5 financed are found to be financially responsible, and that sufficient
6 income may reasonably be expected to be derived from the projects
7 to amortize the interest and principal amount of the bonds or
8 notes;

9 (2) That the projects will benefit the economy of this state.

10 2. The board shall evaluate the financial condition and
11 business history of project owners and lessees, and may require the
12 attachment to each application for guarantee under sections
13 100.250 to 100.297 a financial report and evaluation by an
14 independent certified public accounting firm, in addition to such
15 examination and evaluation as the board may make, in
16 determining whether the owner or lessee meets prescribed
17 minimum standards and qualifications before entering into any
18 guarantee under sections 100.250 to 100.297.

19 3. Every development agency requesting a bond or note
20 guarantee under sections 100.250 to 100.297 shall submit to the
21 board supporting documents, instruments, and other evidence
22 showing the circumstances surrounding the issuance of the bonds

23 or notes, and an initial guarantee fee and a premium payment as
24 required by the board, to the guarantee fund. Such fees and
25 payments may be collected by the development agency from the
26 owners or lessees of the projects involved.]

[100.292. 1. Guarantee agreements for bonds or notes
2 entered into by the board pursuant to the provisions of sections
3 100.250 to 100.297 shall provide that:

4 (1) The board guarantees, and is hereby required, to use the
5 moneys in the guarantee fund to meet amortization payments as
6 guaranteed under the provisions of sections 100.250 to 100.297, as
7 the same become due, in the event, and to the extent, the board or
8 the development agency issuing the bonds or notes is unable to
9 meet such payments in accordance with the terms of the bond or
10 note indenture when called on to do so; and

11 (2) The guarantee shall not be a general obligation of the
12 state of Missouri, but shall be a special obligation, and in no event
13 shall the guarantee be deemed an indebtedness of the state of
14 Missouri, or of any political subdivision thereof, and shall not be
15 deemed to be an indebtedness within the meaning of any
16 constitutional or statutory limitation upon the incurring of
17 indebtedness.

18 2. Whenever the board, acting under the terms of any
19 guarantee agreement, deems it necessary to assume the obligation
20 of maintenance of any project the amortization payments of which
21 have been guaranteed by the board, the board may use funds
22 available in the guarantee fund to pay insurance and maintenance
23 costs required for the preservation of the project and to protect
24 such fund from loss, or to minimize loss, in such manner as deemed
25 necessary by the board.

26 3. In addition to the provisions required by this section the
27 guarantee agreement shall include such other additional
28 provisions, restrictions, and conditions as the board shall
29 determine to be necessary, including, but not limited to, a detailing
30 of the remedies that must be exhausted by the bondholders or
31 noteholders prior to any enforcement of the guarantee agreement
32 and the subrogation or other rights of the board with reference to

33 the project and its operation in the event the board makes payment
34 pursuant to the applicable guarantee agreement.]

[100.293. 1. This section, section 100.277, sections 135.950
2 to 135.973, RSMo, and sections 178.760 to 178.764, RSMo, shall be
3 known and may be cited as the "Jobs Now Act".

4 2. There shall be created a "Jobs Now Recommendation
5 Committee", comprised of representatives of the department of
6 economic development, the department of agriculture, the
7 department of natural resources, and the department of
8 transportation. The committee shall establish application
9 materials and procedures for development agencies to apply to the
10 board for grants or low-interest or interest-free loans for the
11 purpose of funding jobs now projects.

12 3. Applications shall be submitted simultaneously to the
13 committee and the board. The committee shall review the
14 applications and prepare and submit analyses and
15 recommendations to the board for a determination as to approval
16 or denial of grants or loans from the jobs now fund.

17 4. In reviewing applications, the board shall give preference
18 to redevelopment projects that protect natural resources or
19 rehabilitate existing dilapidated or inadequate infrastructure in
20 areas defined under section 135.530, RSMo.

21 5. After reviewing applications and such other information
22 as the board may require, the board may grant all or a part of a
23 grant or loan request, provided the board determines:

24 (1) The jobs now project:

25 (a) Will not happen without the grant or loan from the
26 board; or

27 (b) Will have a significant local economic impact; or

28 (c) Demonstrates high levels of job creation;

29 (2) In the case of a low-interest or interest-free loan, the
30 jobs now project will generate sufficient revenues or the borrower
31 will otherwise have sufficient revenues available to enable the
32 borrower to repay the loan to the jobs now fund, along with any
33 interest to be charged; and

34 (3) No loan or grant may exceed two million dollars.]

1 [100.296. 1. Except as provided in section 620.014, RSMo,
2 sections 100.250 to 100.297 shall be subject to the provisions of
3 sections 109.200 to 109.310, RSMo, the state and local records law,
4 or the provisions of sections 610.010 to 610.030, RSMo, relating to
5 the meetings of governmental bodies, and a member appointed
6 pursuant to section 100.265 shall be exempt from the provisions of
7 chapter 105, RSMo, provided that the member shall not vote or
8 participate in any matter in which the member has a direct or
9 indirect interest. For the purposes of sections 100.250 to 100.297,
10 a "direct or indirect interest" means the ownership of ten percent
11 or more of any class of equity securities in any corporation seeking
12 a guarantee pursuant to the provisions of sections 100.250 to
13 100.297, occupying the office of vice president or other office senior
14 to the office of vice president, or a director, of any corporation
15 seeking a guarantee pursuant to the provisions of sections 100.250
16 to 100.297; provided, nothing contained in sections 100.250 to
17 100.297, nor the provisions of chapter 105, RSMo, shall prevent any
18 corporation, bank, or trust company from purchasing, selling, or
19 otherwise dealing in bonds or notes or mortgages guaranteed
20 pursuant to the provisions of sections 100.250 to 100.297. The
21 development and reserve fund may be pledged to secure loans made
22 through a participating lender with which a member of the board
23 is affiliated so long as the member does not participate in or
24 attempt to influence the approval of any such loan.

25 2. The board shall not knowingly extend or secure a loan or
26 grant a tax credit to, or issue any bonds or enter into any other
27 agreement with or on behalf of any business entity in which a
28 board member, statewide elected official, state legislator or
29 employee of this state has a substantial interest as defined in
30 section 105.450, RSMo.

31 3. The board shall not knowingly extend or secure a loan or
32 grant a tax credit to, or issue any bonds or enter into any other
33 agreement with or on behalf of any business entity until each
34 officer of the business entity has notified the board of all campaign
35 contributions such officer has made within the previous two years,
36 to the extent such contributions are not otherwise reportable by the

37 recipient, pursuant to the provisions of chapter 130, RSMo. For the
38 purposes of this section, "an officer" means a person who is
39 employed by the business entity in a policy-making capacity and
40 whose name is listed in the business entity's articles of
41 incorporation filed with the secretary of state.]

2 [100.297. 1. The board may authorize a tax credit, as
3 described in this section, to the owner of any revenue bonds or
4 notes issued by the board pursuant to the provisions of sections
5 100.250 to 100.297, for infrastructure facilities as defined in
6 subdivision (9) of section 100.255, if, prior to the issuance of such
7 bonds or notes, the board determines that:

8 (1) The availability of such tax credit is a material
9 inducement to the undertaking of the project in the state of
10 Missouri and to the sale of the bonds or notes;

11 (2) The loan with respect to the project is adequately
12 secured by a first deed of trust or mortgage or comparable lien, or
13 other security satisfactory to the board.

14 2. Upon making the determinations specified in subsection
15 1 of this section, the board may declare that each owner of an issue
16 of revenue bonds or notes shall be entitled, in lieu of any other
17 deduction with respect to such bonds or notes, to a tax credit
18 against any tax otherwise due by such owner pursuant to the
19 provisions of chapter 143, RSMo, excluding withholding tax
20 imposed by sections 143.191 to 143.261, RSMo, chapter 147, RSMo,
21 or chapter 148, RSMo, in the amount of one hundred percent of the
22 unpaid principal of and unpaid interest on such bonds or notes held
23 by such owner in the taxable year of such owner following the
24 calendar year of the default of the loan by the borrower with
25 respect to the project. The occurrence of a default shall be
26 governed by documents authorizing the issuance of the bonds. The
27 tax credit allowed pursuant to this section shall be available to the
28 original owners of the bonds or notes or any subsequent owner or
29 owners thereof. Once an owner is entitled to a claim, any such tax
30 credits shall be transferable as provided in subsection 7 of section
31 100.286. Notwithstanding any provision of Missouri law to the
contrary, any portion of the tax credit to which any owner of a

32 revenue bond or note is entitled pursuant to this section which
33 exceeds the total income tax liability of such owner of a revenue
34 bond or note shall be carried forward and allowed as a credit
35 against any future taxes imposed on such owner within the next
36 ten years pursuant to the provisions of chapter 143, RSMo,
37 excluding withholding tax imposed by sections 143.191 to 143.261,
38 RSMo, chapter 147, RSMo, or chapter 148, RSMo. The eligibility
39 of the owner of any revenue bond or note issued pursuant to the
40 provisions of sections 100.250 to 100.297 for the tax credit provided
41 by this section shall be expressly stated on the face of each such
42 bond or note. The tax credit allowed pursuant to this section shall
43 also be available to any financial institution or guarantor which
44 executes any credit facility as security for bonds issued pursuant
45 to this section to the same extent as if such financial institution or
46 guarantor was an owner of the bonds or notes, provided however,
47 in such case the tax credits provided by this section shall be
48 available immediately following any default of the loan by the
49 borrower with respect to the project. In addition to reimbursing
50 the financial institution or guarantor for claims relating to unpaid
51 principal and interest, such claim may include payment of any
52 unpaid fees imposed by such financial institution or guarantor for
53 use of the credit facility.

54 3. The aggregate principal amount of revenue bonds or
55 notes outstanding at any time with respect to which the tax credit
56 provided in this section shall be available shall not exceed fifty
57 million dollars.]

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